

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Confirmation No.: 1172

Serge HAUMONT

Art Unit: 2617

Application No.: 10/500,874

Examiner: Christopher M. BRANDT

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Attorney Dkt. No.: 060091.00329

For: SELECTING GGSN IN SHARED MOBILE NETWORK

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

September 18, 2009

Sir:

In accordance with the Pre-Appeal Brief Conference Pilot Program guidelines set forth in the July 12, 2005 Official Gazette Notice, Applicant hereby submits this Pre-Appeal Brief Request for Review of the final rejections of claims 1, 2, and 4-29 in the above identified application. Claims 1, 2, and 4-29 (incorrectly referred to as “claims 1, 2, and 4-26 in the heading of page 4) were finally rejected in the Final Office Action dated May 18, 2009. Applicant filed a Response to the Final Office Action on August 18, 2009, and the Office issued an Advisory Action dated August 31, 2009 maintaining the final rejections of claims 1, 2, and 4-29. Applicant hereby appeals these rejections and submit this Pre-Appeal Brief Request for Review.

The Final Office Action rejected claims 1, 2, and 4-29 under 35 U.S.C. §103(a) as allegedly being unpatentable over Stille et al. (U.S. Patent Application Publication No. 2002/0128028) (“Stille”) in view of Anderson et al. (U.S. Patent No. 6,148,198) (“Anderson”). Applicants submit that there is clear error due to the fact that the Final Office Action has failed to establish a prima facie case that independent claims 1, 5, 15-16, 19-22, and 27-29, upon which claims 2, 4, 6-14, 17-18, and 23-26 are dependent, are obvious, because the combination of Stille and Anderson fails to disclose, or suggest, at least one element of the independent claims, and

because the Office Action has failed to establish sufficient reasoning to support a legal conclusion of obviousness.

Applicants respectfully submit that the present claims recite subject matter which is neither disclosed nor suggested by Stille and Anderson, and that, therefore, the final rejections are clearly improper and without basis. Specifically, the combination of Stille and Anderson fails to disclose, or suggest, at least, *“selecting, in the network apparatus, the gateway network node of the home network if the mobile station is in a predefined partner network of the home network,”* as recited in independent claim 1, and similarly recited in independent claims 5, 16, 19, 21, and 27-28; and *“an indicator configured to indicate the gateway network node of the home network if the mobile station is in a predefined partner network of the home network,”* as recited in independent claim 15, and similarly recited in independent claims 20, 22, and 29.

The Final Office Action correctly concluded that Stille fails to disclose or suggest the aforementioned limitation. (See Final Office Action at page 5). Furthermore, Anderson does not cure the deficiencies of Stille. Anderson describes a mobile station 24 located in a first coverage area 26 associated with a first service provider 12. The mobile station 24 utilizing a roaming procedure to determine the particular classifications of the service providers 12, 14, and 16. The mobile station 24 further utilizes the roaming procedure to select a best service provider based on a hierarchy of the classified service providers. (See Anderson at col. 3, lines 53-65; Fig. 1). Thus, Anderson merely describes selecting an access point (such as a base station) of a network (such as a partner network) for accessing a radio access network, where multiple radio access networks are at least partly overlapping. (See Anderson at col. 2, lines 42-46). Anderson fails to disclose, or suggest, selecting a gateway network node of a home network if a mobile station is in a predefined partner network of the home network as required by the independent claims. Therefore, even if a person of ordinary skill in the art were to combine the solution of Stille with the solution of Anderson, at the time the present invention was made, the person of ordinary skill in the art would not have arrived at the present invention where a gateway network node of a home network is selected for the mobile terminal. Instead, one of ordinary skill in the art would have arrived at a solution in which the mobile terminal would be able to select an access point (such as a base station) of the partner network for accessing a radio access network of the partner network in case of overlapping networks, in which a separate shared network comprising a shared Serving GPRS Support Node (“SGSN”) could be used for delivering packets.

The Advisory Action maintained the position that Anderson does teach “*selecting, in the network apparatus, the gateway network node of the home network if the mobile station is in a predefined partner network of the home network,*” as recited in independent claim 1, and similarly recited in independent claims 5, 16, 19, 21, and 27-28; and “*an indicator configured to indicate the gateway network node of the home network if the mobile station is in a predefined partner network of the home network,*” as recited in independent claim 15, and similarly recited in independent claims 20, 22, and 29. Specifically, the Advisory Action alleged that Anderson teaches classifying service providers such as home service provider and partner service provider, and then selects the best service provider. The Advisory Action further alleged that if a selection is made using the best service provider, a node has to be selected in order to provide the mobile station with service. (See Advisory Action at page 2). Applicants respectfully submit that this position is incorrect. Anderson merely describes a mobile station which is capable of selecting an access point of a service provider in a scenario where one or more service providers overlap. Anderson does not in any way relate to selecting a gateway network node of a home network in a network apparatus. Instead, Anderson merely relates to selecting a radio channel in a mobile station.

The Advisory Action also alleged that Stille teaches the aforementioned limitation. (See Advisory Action at page 2). As a threshold matter, this position clearly contradicts the Final Office Action’s admission that Stille fails to disclose or suggest the aforementioned limitation. (See Final Office Action at page 5). Such contradictory positions clearly imply that the final rejection was made prematurely, and thus, the rejection should be withdrawn and a new Office Action should be issued in order for the Examiner to clarify his position. Furthermore, Applicants respectfully submit that Stille fails to disclose or suggest the aforementioned limitation. Stille describes that four mobile terminals (MTs) 2, 3, 4, 5, are located in a shared radio network 6. MTs 2, 3, 4, and 5 contact an Switching GRPS Support Network (SGSN) 9 in a shared network owned by two operators A and B. The SGSN 9 of the shared network contacts home location registers (HLRs) 10 and 11 in order to determine which access point name (APN) MTs 2 and 3 may use. Once HLRs 10 and 11 indicate that MTs 2 and 3 may use APNs 12 and 13, the SGSN switches the MTs 2 and 3 to the correct Gateway GPRS Support Nodes (GGSNs) 16 and 17. (See Stille at paragraphs 0021-0022 and 0030). However, Stille fails to disclose or suggest that the shared network is a predefined partner network of the home network of MT2 and

the home network of MT3. Instead, Stille merely describes that the owners of the home networks of MT2 and MT3 are also owners of the shared network. (See Stille at paragraph 0021).

Furthermore, Applicants submit that it would not have been obvious to combine the cited references of Stille and Anderson, because an embodiment of the present invention provides advantages that are not found in either Stille or Anderson. For example, an advantage of an embodiment of the present invention over Stille is that in the embodiment of the present invention, the visited SGSN and the visited GGSN are in the same PLMN, whereas the solution by Stille is only applicable to situations where the visited SGSN and the visited GGSN are in different PLMNs, thus requiring the establishing of a new separate shared network comprising a shared SGSN. (See Stille at paragraphs 0006-0008). As another example, an advantage of an embodiment of the present invention over Anderson, is that the embodiment of the present invention is also applicable to situations where the home network and the partner network are such a distance that they are not overlapping, whereas the solution by Anderson is only applicable to situations where the networks are at least partly overlapping. (See Anderson at col. 2, lines 42-46). Thus, it would not have been obvious to a person of ordinary skill in the art, at the time the present invention was made, to combine Anderson with Stille.

The Advisory Action maintained its position that it would have been obvious, at the time the present invention was made, to combine Anderson with Stille, alleging that Anderson and Stille are both concerned with selecting or locking on to a preferred network. (See Advisory Action at page 2). However the Advisory Action's position fails to take into consideration that Anderson and Stille are directed towards two distinct scenarios. While Anderson is directed to scenarios where the networks are at least partly overlapping, Stille is directed to scenarios where the visited SGSN and visited GGSN are in different PLMNs, and thus, require a separate shared network comprising a shared SGSN. Thus, it would not have been obvious to a person of ordinary skill in the art, at the time the present invention was made, to combine Anderson with Stille.

In view of the above, Applicants respectfully assert that the combination of Stille and Anderson does not disclose, or suggest all of the limitations of independent claims 1, 5, 15-16, 19-22, and 27-29. Applicants further assert that one of ordinary skill in the art, at the time the present invention was made, would not have found the claims obvious in light of Stille and

Anderson. Therefore, the final rejection is improper and without basis. Accordingly, Applicants respectfully request the reconsideration and withdrawal of the § 103(a) rejection.

Reconsideration and withdrawal of the rejections, in view of the clear errors in the Office Action, is respectfully requested. In the event this paper is not being timely filed, the applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,

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Enclosures: PTO/SB/33 Form
Notice of Appeal